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**FROM: TERRY SMYTH**  
20 March 1998

**DESK IMMEDIATE**

cc: PS/Mr Ingram (B&L) - O  
PS/Mr Murphy (B&L) - O  
PS/PUS - O  
Mr Thomas - O  
Mr Steele - O  
Mr Leach - O  
Mr Stephens - O  
Mr Watkins - O  
Mr Kelly - O  
Mr Perry - O  
Mr Warner - O



PS/Secretary of State (B&L) - O

**PARADES COMMISSION: PRELIMINARY VIEW**

Further to my earlier minute of today's date, I have just received a telephone call from Richard Buchanan.

2. Richard tells me that he has been speaking this afternoon to three members of the Commission all of whom have now, to a greater or lesser extent, expressed some doubts about the wisdom of publishing the preliminary view in advance of the projected date for agreement at the Talks. However we know that Alistair Graham and a number of the other members remain committed to publication by the end of March and it could be that they will be able to calm the anxieties of their wavering colleagues.

3. As indicated in my earlier minute, there is to be a meeting of the full Commission on 23 March. A decision about the timing of publication of the preliminary view will presumably be taken then.

4. These latest developments have no effect on our considered view that you should advise John Holmes that our line remains that the Government should not make any approach to the Parades Commission on this issue. Rather, it reinforces that view.

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5. In light of this, I have amended the draft letter to John Holmes and this is attached.

6. We will advise of the Commission's decision on timing of the preliminary view as soon as we know it.

Signed

T. Smyth  
Ext. 27955

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DRAFT

John Holmes Esq  
Private Secretary to the Prime Minister  
10 Downing Street  
London  
SW1A 2AA

March 1998

**PARADES COMMISSION: PRELIMINARY VIEW**

In your letter of 18 March, while acknowledging the strength of the arguments set out in my letter of 13 March, you enquired, if we felt that we wanted to exercise a bit of "discreet persuasion" on the Parades Commission to delay publication of their preliminary view, how might this be done?

We have been in touch with both the Secretary and Chairman of the Parades Commission. Our clear judgement is that the Commission would not be prepared to consider any form of "discreet" representations about this issue. If Government wished to seek to persuade the Commission to delay publication of the preliminary view, it would need to be done openly and on the record. Even then, as I pointed out in my letter, there is no guarantee that the Commission would agree to such a postponement.

In my letter I pointed out that, whatever way the Drumcree decision goes, it will have the capacity to cause problems irrespective of when it is announced. Therefore, even if the announcement were to be delayed until after agreement had been reached in the Talks, it would still impact on the referenda campaigns; and if delayed until after the referenda, it would have an impact on the subsequent elections.

A major advantage of the preliminary view is that, in advance of actual determinations made by the Commission, it can be presented as a balanced package. If publication is delayed, the Commission will have to begin to make determinations on individual

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contentious parades such as that on the Ormeau Road on Easter Monday. Inevitably, such decisions would be viewed by the community in Northern Ireland in isolation and on their perceived individual merits, ie the old "win/lose" scenario, rather than as being part only of a balanced package covering a range of parades. And the more actual determinations which the Commission has to make before publication of the preliminary view, the less relevant the preliminary view will become. Ultimately, if it is delayed too long, there is little point in publishing it at all. As I pointed out in my letter, the Commission is totally committed, in public, to such publication.

You may not be aware that one of the more vocal of the Nationalist residents' organisations, the Lower Ormeau Concerned Community, has been granted leave to apply for judicial review of my Secretary of State's appointments to the Commission, on the grounds that the membership is not balanced and cannot therefore act in an unbiased way. The Commission clearly sees publication of the preliminary view as crucial in terms of being able to counter these allegations and to show that the Commission is an independent and impartial body.

Having said this, our latest information is that some members of the Commission are beginning to have doubts, to a greater or lesser extent, about the wisdom of publishing the preliminary view in advance of the projected date for agreement at the Talks. However, other members including, we think, the Chairman, Alistair Graham, remain committed to publication by the end of March. We understand that there is to be a meeting of the full Commission on Monday 23 March to discuss and take decisions about both the content and the timing of the preliminary view. Either way, my Secretary of State remains firmly of the view that we should not make any approach to the Parades Commission, whether formal or informal, about this issue.

You also enquired whether we had any idea what the Parades Commission is going to say in the announcement, in particular about Drumcree. As I have said, there is to be a meeting of the full Commission on 23 March at which final decisions will be taken on the

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content of the package. This meeting will follow on from a meeting earlier that day between Alistair Graham and the Chief Constable of the RUC, which may have a bearing on the decisions to be taken by the Commission.

W K LINDSAY

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FROM: TERRY SMYTH  
20 March 1998



DESK IMMEDIATE

cc: PS/Mr Ingram (B&L) - O  
PS/Mr Murphy (B&L) - O  
PS/PUS - O  
Mr Thomas - O  
Mr Steele - O  
Mr Leach - O  
Mr Stephens - O  
Mr Watkins - O  
Mr Kelly - O  
Mr Perry - O  
Mr Warner - O

*In Conf 24/3*

*Mr. [Signature]  
Parades Commission  
file*

PS/Secretary of State (B&L) - O

**PARADES COMMISSION: PRELIMINARY VIEW**

In his letter of 18 March John Holmes, while acknowledging the strength of the arguments set out in your letter of 13 March, enquires, if we felt that we wanted to exercise a bit of "discreet persuasion" on the Parades Commission to delay publication of their preliminary view, how might this be done?

2. I have talked to Richard Buchanan and, separately, Mr Steele has been in touch with Alistair Graham. Our clear judgement is that the Parades Commission would not be prepared to consider any form of "discreet" representations about this issue. If Government wished to seek to persuade the Commission to delay publication of the preliminary view, it would need to be done openly and on the record. Even then, as you pointed out in your letter to John Holmes, there is no guarantee that the Commission would agree to such a postponement. In any case, I understand that the Secretary of State remains firmly of the view that we should not make any approach, formal or informal, to the Commission on this issue.

3. In your letter you pointed out that, whatever way the Drumcree decision goes, it will have the capacity to cause problems, irrespective of when it is announced.

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Therefore, even if the announcement were to be delayed until after agreement had been reached in the Talks, it would still impact on the referenda campaigns; and if delayed until after the referenda, it would have an impact on the subsequent elections.

4. A major advantage of the preliminary view is that, in advance of actual determinations made by the Commission, it can be presented as a balanced package. If publication is delayed, the Commission will have to begin to make determinations on individual contentious parades, beginning with that on the Ormeau Road on Easter Monday. Inevitably, such decisions would be viewed by the community in Northern Ireland in isolation and on their perceived individual merits, ie the old "win/lose" scenario, rather than as being part only of a balanced package covering a range of parades. And the more actual determinations which the Commission has to make before publication of the preliminary view, the less relevant the preliminary view will become. Ultimately, if it is delayed too long, there is little point in publishing it at all.

5. As the Secretary of State is aware, the Lower Ormeau Concerned Community have been granted leave to apply for judicial review of the Secretary of State's appointments to the Commission, on the grounds that the membership is not balanced and cannot therefore act in an unbiased way. The Commission clearly sees early publication of the preliminary view as crucial in terms of being able to counter these allegations and to show that the Commission is an independent and impartial body. Our assessment is that the Commission is pretty determined to push ahead with publication, in advance of the planned parade on the Ormeau Road on Easter Monday.

6. John Holmes also enquired whether we had any idea what the Parades Commission is going to say in the announcement, in particular about Drumcree. Our understanding is that there is to be a meeting between the Chief Constable and Alistair Graham in the morning of 23 March, following which there will be a meeting of the full Commission at which final decisions will be taken on the content of the package.

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7. I attach a draft reply to John Holmes.

Signed

T. Smyth  
Ext. 27955

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DRAFT

John Holmes Esq  
Private Secretary to the Prime Minister  
10 Downing Street  
London  
SW1A 2AA

March 1998

**PARADES COMMISSION: PRELIMINARY VIEW**

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You may not be aware that one of the more vocal of the Nationalist residents' organisations, the Lower Ormeau Concerned Community, has been granted leave to apply for judicial review of my Secretary of State's appointments to the Commission, on the grounds that the membership is not balanced and cannot therefore act in an unbiased way. The Commission clearly sees early publication of the preliminary view as crucial in terms of being able to counter these allegations and to show that the Commission is an independent and impartial body. Our assessment is that the Commission is pretty determined to push ahead with publication, in advance of the planned parade on the Ormeau Road on Easter Monday. In the circumstances, my Secretary of State remains firmly of the view that we should not make any approach to the Parades Commission, whether formal or informal, about this issue.

You also enquired whether we had any idea what the Parades Commission is going to say in the announcement, in particular about Drumcree. Our understanding is that there is to be a meeting between the Chief Constable of the RUC and the Chairman of the Parades Commission, Alistair Graham, in the morning of 23 March, following which there will be a meeting of the full Commission at which final decisions will be taken on the content of the package.

W K LINDSAY

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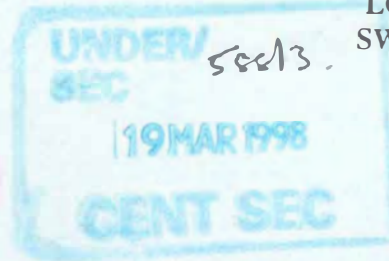


From: THE PRIVATE SECRETARY

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NORTHERN IRELAND OFFICE  
11 MILLBANK  
LONDON  
SW1P 4QE



John Holmes Esq  
Private Secretary of the Prime Minister  
10 Downing Street  
London SW1A 2AA

*Dear John,*

13 March 1998

*In Briefcase  
20.3  
North Report  
(Parades  
Commission)  
file*

#### PARADES COMMISSION: PRELIMINARY VIEW

Under the Public Processions (NI) Act 1998, which came into effect recently, the Parades Commission is responsible for promoting and facilitating local accommodation as a means of resolving disputes about contentious parades in Northern Ireland. Where this is not possible, the Commission has the power to make legally binding determinations on such parades.

2. The Parades Commission has been gathering evidence in the various locations where contentious parades are likely to take place this year, including Drumcree. Having considered all of the available information relating to those factors which the Act requires the Commission to take into account, the Commission intends to publish a "preliminary view" about a number of the more contentious parades. This will relate to the question of whether, and the extent to which, conditions might be imposed on any or all of the parades in question.
3. The expression of this "preliminary view" derives from the recommendations of the North Report, which forms the basis for the provisions of the Act. North felt that there would be advantage in the Parades Commission taking a broad overview of the number and nature of parades in a particular area, over a period of time, rather than just considering individual parades one at a time. North felt that the latter was a recipe for maintaining the win/lose perspective, which in the past has led to confrontation and trouble. On this basis, the Report

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recommended that the Commission should have the statutory power to reach and promulgate conclusions in relation to a number of parades over a period of time.

4. In drawing up the draft legislation, our strong legal advice was that this particular North recommendation could not be implemented because the Commission would be very vulnerable to legal challenge if it attempted to reach a legally binding determination on a number of parades, well in advance of the receipt of formal notification for such parades. On that basis, the Act does not give the Commission the statutory powers which North recommended. However, the Commission agrees with the North analysis of the issue and has concluded that there would considerable advantage in publishing a "preliminary view" about a number of the more contentious parades. In making any announcement the Commission would stress that its findings represent its initial views and are not legally binding. Any legal determination of the Commission could not be made until receipt of the formal notification for a particular parade and indeed may differ from the view initially expressed by the Commission about that parade.

5. In its Procedural Rules, which is one of three statutory documents produced by the Commission under the Act, the Commission has publicly committed itself to expressing a preliminary view. While the Procedural Rules are silent as to the timing of publication, the Commission has made it known that it will seek to do this in late March. It's hope would be that the preliminary view, covering as it does a range of contentious parades, will be seen as a balanced package which will command the support of the middle ground in Northern Ireland, hopefully therefore isolating the extremes on both sides.

6. There are, of course, potential problems arising from the fact that the Commission will give a public indication of how it would be minded to treat the

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Drumcree parade, some three months before that parade is in fact due to take place. There are concerns that this will give those who are disappointed with the Commission's initial view a considerable amount of time to prepare for confrontation and foment trouble. There is also concern that, whether the Commission's initial view is that the parade should proceed down the Garvaghy Road or be re-routed, this would have the potential of impacting adversely on the progress made during the political talks which would at that time be at a particularly sensitive stage.

7. My Secretary of State has, therefore, together with Ministerial colleagues and senior officials been considering whether there would be any advantage in seeking to persuade the Parades Commission to delay publication of the preliminary view, for example until after Easter. In this context, it must be borne in mind that the Commission is an independent body and the Government has stressed this independence at every available public opportunity. If the Government were to express a view about the timing of any announcement, therefore, there is no guarantee that the Commission would take this on board. And even if it did, it is inevitable that the delay would be widely seen as having resulted from political pressure from Government, thereby considerably damaging the credibility of the Commission as an independent body. It is also, unfortunately, the case that the decision on Drumcree whatever way it goes, will have the capacity to cause problems, both on the security and political fronts, irrespective of when it is announced.

8. My Secretary of State's assessment is that there is little to be gained by attempting to persuade the Commission to delay the announcement. Further, the pronouncements of the Parades Commission, whether in relation to the preliminary view or to actual determinations about particular parades, will be open to judicial

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review. Past experience in Northern Ireland would indicate that this is not unlikely and, if it did happen, there would be considerable advantage in being able to show that Ministers have made no attempt whatsoever to influence the Parades Commission in relation to its preliminary view, whether in respect of content or timing.

9. In summary, therefore, my Secretary of State feels that the best approach is to stand back from this issue at this stage and let the Commission proceed to promulgate and announce its preliminary view without any input from Government. We understand that the Commission intends to make this announcement on 31 March.

10. I would be grateful if you could confirm that the Prime Minister would be content with this approach.

Yours etc,

Ken

W K LINDSAY

BFSS (L)

PS/Mr Ingham (RUL)

PS/Mr Keating (DPP AGU)

PS/PS

Mr Thomas

Mr Stole

Mr Leach

Mr Stephens

Mr Watkins

Mr Kelly

Mr Perry

Mr ~~Ward~~ Mr T. Smyth

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